

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GERARD O'NEILL

Plaintiff,  
-----X  
-against-

TITO HERNANDEZ, RICARDO MORALES,  
and NEW YORK CITY HOUSING AUTHORITY,

Defendants.  
-----X  
KIMBA M. WOOD, U.S.D.J.:

08 Civ. 1689 (KMW) (RLE)

ORDER

Defendants urge the Court to consider their Motion to Dismiss fully briefed. However, the Court faces two distinct motions, neither of which is fully briefed.

On April 11, 2008, Defendants moved to dismiss this case.<sup>1</sup> Plaintiff has not responded to Defendants' Motion to Dismiss.

On May 1, 2008, Plaintiff moved to remand the case to state

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<sup>1</sup>Pursuant to the Court's March 24, 2008 Order, Defendants filed the motion to dismiss on April 11, 2008. However, according to the Electronic Case Filing ("ECF") docket sheet, Defendants' filing was deficient. On April 14, 2008, Defendants' counsel received notice of a filing error. Defendants' counsel promptly refiled the supporting documents for the motion to dismiss, but failed to refile the notice of the motion to dismiss. The motion to dismiss thus remains formally terminated. **The Court accepts the motion to dismiss as timely filed on April 11, 2008, but orders Defendants to refile the notice of the motion to dismiss within twenty-four hours of receiving this Order.**

This case is currently designated an ECF case. The parties are thus expected to file submissions electronically and receive electronic notice of filings. Given Plaintiff's pro se status, he may prefer that the Court remove the ECF designation of this case. **If Plaintiff wishes the Court to remove the ECF designation of this case, he must submit a written request to that effect within seven days of receiving this Order.**

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court, or, in the alternative, to amend the complaint and obtain preliminary injunctive relief. Defendants opposed Plaintiff's May 1, 2008 motions in their May 8, 2008 submission. Although Defendants title the May 8, 2008 submission as "Reply Memorandum of Law in Further Support of Their Motion to Dismiss the Complaint," the Court construes it as Defendants' response to Plaintiff's May 1, 2008 motions. Plaintiff has not responded to Defendants' May 8, 2008 opposition to his May 1, 2008 motions.

**Accordingly, the Court sets the following briefing schedule: No later than Friday, June 6, 2008, Plaintiff must serve and file (1) any opposition to Defendants' Motion to Dismiss; and (2) any reply to Defendants' May 8, 2008 opposition to Plaintiff's May 1, 2008 motions. No later than Friday, June 20, 2008, Defendants must serve and file any reply to Plaintiff's opposition to the Motion to Dismiss.**

SO ORDERED.

Dated: New York, New York  
May 14, 2008

Kimba M. Wood  
Kimba M. Wood  
United States District Judge